

Office of the Secretary, Commerce

§ 4.6

of the record, and the name and location of the office where the record is located. Also, if records about a court case are sought, the title of the case, the court in which the case was filed, and the nature of the case should be included. If known, any file designations or descriptions of the requested records should be included. In general, the more specifically the request describes the records sought, the greater the likelihood that the Department will be able to locate those records. If a component determines that a request does not reasonably describe records, it shall inform the requester what additional information is needed or how the request is otherwise insufficient, to enable the requester to modify the request to meet the requirements of this section.

§ 4.5 Responsibility for responding to requests.

(a) *In general.* Except as stated in paragraph (b) of this section, the proper component of the Department to respond to a request for records is the component that first receives the request and has responsive records, or the component to which the Departmental Freedom of Information Officer assigns lead responsibility for responding to the request. Records responsive to a request shall include those records within the Department's possession and control as of the date the Department begins its search for them.

(b) *Consultations and referrals.* If a component receives a request for a record in its possession in which another Federal agency subject to the FOIA has the primary interest, the component shall refer the record to that agency for direct response to the requester. Ordinarily, the agency that originated a record will be presumed to have the primary interest in it. A component shall consult with another Federal agency before responding to a requester if the component receives a request for a record in which another Federal agency subject to the FOIA has a significant interest, but not the primary interest; or another Federal agency not subject to the FOIA has the primary interest or a significant interest (see § 4.8 for additional information

about referrals of classified information).

(c) *Notice of referral.* Whenever a component refers a document to another Federal agency for direct response to the requester, it ordinarily shall notify the requester in writing of the referral and inform the requester of the name of the agency to which the document was referred.

(d) *Timing of responses to consultations and referrals.* All consultations and referrals shall be handled in chronological order, based on when the FOIA request was received by the first Federal agency.

(e) *Agreements regarding consultations and referrals.* Components may make agreements with other Federal agencies to eliminate the need for consultations or referrals for particular types of records.

[66 FR 65632, Dec. 20, 2001, as amended at 71 FR 31073, June 1, 2006]

§ 4.6 Time limits and expedited processing.

(a) *In general.* Components ordinarily shall respond to requests according to their order of receipt.

(b) *Initial response and appeal.* Subject to paragraph (c)(1) of this section, an initial response shall be made within 20 working days (*i.e.*, excluding Saturdays, Sundays, and legal public holidays) of the receipt of a request for a record under this part by the proper component identified in accordance with § 4.5(a), and an appeal shall be decided within 20 working days of its receipt by the Office of the General Counsel.

(c) *Unusual circumstances.* (1) In unusual circumstances as specified in paragraph (c)(2) of this section, an official listed in Appendix B to this part may extend the time limits in paragraph (b) of this section by notifying the requester in writing as soon as practicable of the unusual circumstances and of the date by which processing of the request is expected to be completed. If the extension is for more than ten working days, the component shall provide the requester an opportunity either to modify the request so that it may be processed within the applicable time limit, or to arrange an alternative time frame for